

# HB5244



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB5244**

by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/7-139

from Ch. 108 1/2, par. 7-139

Amends the Illinois Municipal Retirement Fund Article of the Illinois Pension Code. Makes technical changes in a Section concerning credits and creditable service.

LRB095 17584 AMC 43658 b

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing  
5 Section 7-139 as follows:

6 (40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

7 Sec. 7-139. Credits and creditable service to employees.

8 (a) Each participating employee shall be granted credits  
9 and ~~and~~ creditable service, for purposes of determining the  
10 amount of any annuity or benefit to which he or a beneficiary  
11 is entitled, as follows:

12 1. For prior service: Each participating employee who  
13 is an employee of a participating municipality or  
14 participating instrumentality on the effective date shall  
15 be granted creditable service, but no credits under  
16 paragraph 2 of this subsection (a), for periods of prior  
17 service for which credit has not been received under any  
18 other pension fund or retirement system established under  
19 this Code, as follows:

20 If the effective date of participation for the  
21 participating municipality or participating  
22 instrumentality is on or before January 1, 1998, creditable  
23 service shall be granted for the entire period of prior

1 service with that employer without any employee  
2 contribution.

3 If the effective date of participation for the  
4 participating municipality or participating  
5 instrumentality is after January 1, 1998, creditable  
6 service shall be granted for the last 20% of the period of  
7 prior service with that employer, but no more than 5 years,  
8 without any employee contribution. A participating  
9 employee may establish creditable service for the  
10 remainder of the period of prior service with that employer  
11 by making an application in writing, accompanied by payment  
12 of an employee contribution in an amount determined by the  
13 Fund, based on the employee contribution rates in effect at  
14 the time of application for the creditable service and the  
15 employee's salary rate on the effective date of  
16 participation for that employer, plus interest at the  
17 effective rate from the date of the prior service to the  
18 date of payment. Application for this creditable service  
19 may be made at any time while the employee is still in  
20 service.

21 A municipality that (i) has at least 35 employees; (ii)  
22 is located in a county with at least 2,000,000 inhabitants;  
23 and (iii) maintains an independent defined benefit pension  
24 plan for the benefit of its eligible employees may restrict  
25 creditable service in whole or in part for periods of prior  
26 service with the employer if the governing body of the

1 municipality adopts an irrevocable resolution to restrict  
2 that creditable service and files the resolution with the  
3 board before the municipality's effective date of  
4 participation.

5 Any person who has withdrawn from the service of a  
6 participating municipality or participating  
7 instrumentality prior to the effective date, who reenters  
8 the service of the same municipality or participating  
9 instrumentality after the effective date and becomes a  
10 participating employee is entitled to creditable service  
11 for prior service as otherwise provided in this subdivision  
12 (a)(1) only if he or she renders 2 years of service as a  
13 participating employee after the effective date.  
14 Application for such service must be made while in a  
15 participating status. The salary rate to be used in the  
16 calculation of the required employee contribution, if any,  
17 shall be the employee's salary rate at the time of first  
18 reentering service with the employer after the employer's  
19 effective date of participation.

20 2. For current service, each participating employee  
21 shall be credited with:

22 a. Additional credits of amounts equal to each  
23 payment of additional contributions received from him  
24 under Section 7-173, as of the date the corresponding  
25 payment of earnings is payable to him.

26 b. Normal credits of amounts equal to each payment

1 of normal contributions received from him, as of the  
2 date the corresponding payment of earnings is payable  
3 to him, and normal contributions made for the purpose  
4 of establishing out-of-state service credits as  
5 permitted under the conditions set forth in paragraph 6  
6 of this subsection (a).

7 c. Municipality credits in an amount equal to 1.4  
8 times the normal credits, except those established by  
9 out-of-state service credits, as of the date of  
10 computation of any benefit if these credits would  
11 increase the benefit.

12 d. Survivor credits equal to each payment of  
13 survivor contributions received from the participating  
14 employee as of the date the corresponding payment of  
15 earnings is payable, and survivor contributions made  
16 for the purpose of establishing out-of-state service  
17 credits.

18 3. For periods of temporary and total and permanent  
19 disability benefits, each employee receiving disability  
20 benefits shall be granted creditable service for the period  
21 during which disability benefits are payable. Normal and  
22 survivor credits, based upon the rate of earnings applied  
23 for disability benefits, shall also be granted if such  
24 credits would result in a higher benefit to any such  
25 employee or his beneficiary.

26 4. For authorized leave of absence without pay: A

1 participating employee shall be granted credits and  
2 creditable service for periods of authorized leave of  
3 absence without pay under the following conditions:

4 a. An application for credits and creditable  
5 service is submitted to the board while the employee is  
6 in a status of active employment, and within 2 years  
7 after termination of the leave of absence period for  
8 which credits and creditable service are sought.

9 b. Not more than 12 complete months of creditable  
10 service for authorized leave of absence without pay  
11 shall be counted for purposes of determining any  
12 benefits payable under this Article.

13 c. Credits and creditable service shall be granted  
14 for leave of absence only if such leave is approved by  
15 the governing body of the municipality, including  
16 approval of the estimated cost thereof to the  
17 municipality as determined by the fund, and employee  
18 contributions, plus interest at the effective rate  
19 applicable for each year from the end of the period of  
20 leave to date of payment, have been paid to the fund in  
21 accordance with Section 7-173. The contributions shall  
22 be computed upon the assumption earnings continued  
23 during the period of leave at the rate in effect when  
24 the leave began.

25 d. Benefits under the provisions of Sections  
26 7-141, 7-146, 7-150 and 7-163 shall become payable to

1 employees on authorized leave of absence, or their  
2 designated beneficiary, only if such leave of absence  
3 is creditable hereunder, and if the employee has at  
4 least one year of creditable service other than the  
5 service granted for leave of absence. Any employee  
6 contributions due may be deducted from any benefits  
7 payable.

8 e. No credits or creditable service shall be  
9 allowed for leave of absence without pay during any  
10 period of prior service.

11 5. For military service: The governing body of a  
12 municipality or participating instrumentality may elect to  
13 allow creditable service to participating employees who  
14 leave their employment to serve in the armed forces of the  
15 United States for all periods of such service, provided  
16 that the person returns to active employment within 90 days  
17 after completion of full time active duty, but no  
18 creditable service shall be allowed such person for any  
19 period that can be used in the computation of a pension or  
20 any other pay or benefit, other than pay for active duty,  
21 for service in any branch of the armed forces of the United  
22 States. If necessary to the computation of any benefit, the  
23 board shall establish municipality credits for  
24 participating employees under this paragraph on the  
25 assumption that the employee received earnings at the rate  
26 received at the time he left the employment to enter the

1           armed forces. A participating employee in the armed forces  
2           shall not be considered an employee during such period of  
3           service and no additional death and no disability benefits  
4           are payable for death or disability during such period.

5           Any participating employee who left his employment  
6           with a municipality or participating instrumentality to  
7           serve in the armed forces of the United States and who  
8           again became a participating employee within 90 days after  
9           completion of full time active duty by entering the service  
10          of a different municipality or participating  
11          instrumentality, which has elected to allow creditable  
12          service for periods of military service under the preceding  
13          paragraph, shall also be allowed creditable service for his  
14          period of military service on the same terms that would  
15          apply if he had been employed, before entering military  
16          service, by the municipality or instrumentality which  
17          employed him after he left the military service and the  
18          employer costs arising in relation to such grant of  
19          creditable service shall be charged to and paid by that  
20          municipality or instrumentality.

21          Notwithstanding the foregoing, any participating  
22          employee shall be entitled to creditable service as  
23          required by any federal law relating to re-employment  
24          rights of persons who served in the United States Armed  
25          Services. Such creditable service shall be granted upon  
26          payment by the member of an amount equal to the employee



1 contributions which would have been required had the  
2 employee continued in service at the same rate of earnings  
3 during the military leave period, plus interest at the  
4 effective rate.

5 5.1. In addition to any creditable service established  
6 under paragraph 5 of this subsection (a), creditable  
7 service may be granted for up to 48 months of service in  
8 the armed forces of the United States.

9 In order to receive creditable service for military  
10 service under this paragraph 5.1, a participating employee  
11 must (1) apply to the Fund in writing and provide evidence  
12 of the military service that is satisfactory to the Board;  
13 (2) obtain the written approval of the current employer;  
14 and (3) make contributions to the Fund equal to (i) the  
15 employee contributions that would have been required had  
16 the service been rendered as a member, plus (ii) an amount  
17 determined by the board to be equal to the employer's  
18 normal cost of the benefits accrued for that military  
19 service, plus (iii) interest on items (i) and (ii) from the  
20 date of first membership in the Fund to the date of  
21 payment. The required interest shall be calculated at the  
22 regular interest rate.

23 The changes made to this paragraph 5.1 by Public Acts  
24 95-483 and 95-486 ~~this amendatory Act of the 95th General~~  
25 ~~Assembly~~ apply only to participating employees in service  
26 on or after August 28, 2007 (the effective date of those

1        Public Acts) ~~its effective date.~~

2            6. For out-of-state service: Creditable service shall  
3 be granted for service rendered to an out-of-state local  
4 governmental body under the following conditions: The  
5 employee had participated and has irrevocably forfeited  
6 all rights to benefits in the out-of-state public employees  
7 pension system; the governing body of his participating  
8 municipality or instrumentality authorizes the employee to  
9 establish such service; the employee has 2 years current  
10 service with this municipality or participating  
11 instrumentality; the employee makes a payment of  
12 contributions, which shall be computed at 8% (normal) plus  
13 2% (survivor) times length of service purchased times the  
14 average rate of earnings for the first 2 years of service  
15 with the municipality or participating instrumentality  
16 whose governing body authorizes the service established  
17 plus interest at the effective rate on the date such  
18 credits are established, payable from the date the employee  
19 completes the required 2 years of current service to date  
20 of payment. In no case shall more than 120 months of  
21 creditable service be granted under this provision.

22            7. For retroactive service: Any employee who could have  
23 but did not elect to become a participating employee, or  
24 who should have been a participant in the Municipal Public  
25 Utilities Annuity and Benefit Fund before that fund was  
26 superseded, may receive creditable service for the period

1 of service not to exceed 50 months; however, a current or  
2 former elected or appointed official of a participating  
3 municipality may establish credit under this paragraph 7  
4 for more than 50 months of service as an official of that  
5 municipality, if the excess over 50 months is approved by  
6 resolution of the governing body of the affected  
7 municipality filed with the Fund before January 1, 2002.

8 Any employee who is a participating employee on or  
9 after September 24, 1981 and who was excluded from  
10 participation by the age restrictions removed by Public Act  
11 82-596 may receive creditable service for the period, on or  
12 after January 1, 1979, excluded by the age restriction and,  
13 in addition, if the governing body of the participating  
14 municipality or participating instrumentality elects to  
15 allow creditable service for all employees excluded by the  
16 age restriction prior to January 1, 1979, for service  
17 during the period prior to that date excluded by the age  
18 restriction. Any employee who was excluded from  
19 participation by the age restriction removed by Public Act  
20 82-596 and who is not a participating employee on or after  
21 September 24, 1981 may receive creditable service for  
22 service after January 1, 1979. Creditable service under  
23 this paragraph shall be granted upon payment of the  
24 employee contributions which would have been required had  
25 he participated, with interest at the effective rate for  
26 each year from the end of the period of service established

1 to date of payment.

2 8. For accumulated unused sick leave: A participating  
3 employee who is applying for a retirement annuity shall be  
4 entitled to creditable service for that portion of the  
5 employee's accumulated unused sick leave for which payment  
6 is not received, as follows:

7 a. Sick leave days shall be limited to those  
8 accumulated under a sick leave plan established by a  
9 participating municipality or participating  
10 instrumentality which is available to all employees or  
11 a class of employees.

12 b. Only sick leave days accumulated with a  
13 participating municipality or participating  
14 instrumentality with which the employee was in service  
15 within 60 days of the effective date of his retirement  
16 annuity shall be credited; If the employee was in  
17 service with more than one employer during this period  
18 only the sick leave days with the employer with which  
19 the employee has the greatest number of unpaid sick  
20 leave days shall be considered.

21 c. The creditable service granted shall be  
22 considered solely for the purpose of computing the  
23 amount of the retirement annuity and shall not be used  
24 to establish any minimum service period required by any  
25 provision of the Illinois Pension Code, the effective  
26 date of the retirement annuity, or the final rate of

1 earnings.

2 d. The creditable service shall be at the rate of  
3 1/20 of a month for each full sick day, provided that  
4 no more than 12 months may be credited under this  
5 subdivision 8.

6 e. Employee contributions shall not be required  
7 for creditable service under this subdivision 8.

8 f. Each participating municipality and  
9 participating instrumentality with which an employee  
10 has service within 60 days of the effective date of his  
11 retirement annuity shall certify to the board the  
12 number of accumulated unpaid sick leave days credited  
13 to the employee at the time of termination of service.

14 9. For service transferred from another system:  
15 Credits and creditable service shall be granted for service  
16 under Article 3, 4, 5, 8, 14, or 16 of this Act, to any  
17 active member of this Fund, and to any inactive member who  
18 has been a county sheriff, upon transfer of such credits  
19 pursuant to Section 3-110.3, 4-108.3, 5-235, 8-226.7,  
20 14-105.6, or 16-131.4, and payment by the member of the  
21 amount by which (1) the employer and employee contributions  
22 that would have been required if he had participated in  
23 this Fund as a sheriff's law enforcement employee during  
24 the period for which credit is being transferred, plus  
25 interest thereon at the effective rate for each year,  
26 compounded annually, from the date of termination of the

1 service for which credit is being transferred to the date  
2 of payment, exceeds (2) the amount actually transferred to  
3 the Fund. Such transferred service shall be deemed to be  
4 service as a sheriff's law enforcement employee for the  
5 purposes of Section 7-142.1.

6 10. For service transferred from an Article 3 system  
7 under Section 3-110.8: Credits and creditable service  
8 shall be granted for service under Article 3 of this Act as  
9 provided in Section 3-110.8, to any active member of this  
10 Fund upon transfer of such credits pursuant to Section  
11 3-110.8. If the amount by which (1) the employer and  
12 employee contributions that would have been required if he  
13 had participated in this Fund during the period for which  
14 credit is being transferred, plus interest thereon at the  
15 effective rate for each year, compounded annually, from the  
16 date of termination of the service for which credit is  
17 being transferred to the date of payment, exceeds (2) the  
18 amount actually transferred to the Fund, then the amount of  
19 creditable service established under this paragraph 10  
20 shall be reduced by a corresponding amount in accordance  
21 with the rules and procedures established under this  
22 paragraph 10.

23 The board shall establish by rule the manner of making  
24 the calculation required under this paragraph 10, taking  
25 into account the appropriate actuarial assumptions; the  
26 member's service, age, and salary history; the level of

1 funding of the employer; and any other factors that the  
2 board determines to be relevant.

3 (b) Creditable service - amount:

4 1. One month of creditable service shall be allowed for  
5 each month for which a participating employee made  
6 contributions as required under Section 7-173, or for which  
7 creditable service is otherwise granted hereunder. Not  
8 more than 1 month of service shall be credited and counted  
9 for 1 calendar month, and not more than 1 year of service  
10 shall be credited and counted for any calendar year. A  
11 calendar month means a nominal month beginning on the first  
12 day thereof, and a calendar year means a year beginning  
13 January 1 and ending December 31.

14 2. A seasonal employee shall be given 12 months of  
15 creditable service if he renders the number of months of  
16 service normally required by the position in a 12-month  
17 period and he remains in service for the entire 12-month  
18 period. Otherwise a fractional year of service in the  
19 number of months of service rendered shall be credited.

20 3. An intermittent employee shall be given creditable  
21 service for only those months in which a contribution is  
22 made under Section 7-173.

23 (c) No application for correction of credits or creditable  
24 service shall be considered unless the board receives an  
25 application for correction while (1) the applicant is a  
26 participating employee and in active employment with a

1 participating municipality or instrumentality, or (2) while  
2 the applicant is actively participating in a pension fund or  
3 retirement system which is a participating system under the  
4 Retirement Systems Reciprocal Act. A participating employee or  
5 other applicant shall not be entitled to credits or creditable  
6 service unless the required employee contributions are made in  
7 a lump sum or in installments made in accordance with board  
8 rule.

9 (d) Upon the granting of a retirement, surviving spouse or  
10 child annuity, a death benefit or a separation benefit, on  
11 account of any employee, all individual accumulated credits  
12 shall thereupon terminate. Upon the withdrawal of additional  
13 contributions, the credits applicable thereto shall thereupon  
14 terminate. Terminated credits shall not be applied to increase  
15 the benefits any remaining employee would otherwise receive  
16 under this Article.

17 (Source: P.A. 95-483, eff. 8-28-07; 95-486, eff. 8-28-07;  
18 95-504, eff. 8-28-07; revised 11-9-07.)